IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 17TH DECEMBER 2007 / 26TH AGRAHAYANA 1929

WP(C).No. 37217 of 2007(E)

OS.138/2006 of PRINCIPAL SUB COURT,ATTINGAL
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PETITIONER:

NAZAR, AGED 34 YEARS,
S/O.JALAL, KAREEMA MANZIL,
VETTOOR DESOM, VETTOOR VILLAGE,
CHIRAYINKEEZHU TALUK.

BY ADV. SRI. N.M.JAMES

RESPONDENTS:
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1. **A.THOMAS, S/O.ABRAHAM THOMAS,**
   VELLIYATH VEEDU, ARUKALICKAL EAST,
   NEDUMON, EZHAMKULAM, ADOOR TALUK.

2. **RAJENDRAN, S/O.NADARAJAN,**
   RAJ BHAVAN, KARETTE, VAMANAPURAM,
   NEDUMANGAD TALUK.

3. **S.A.USHA, W/O.RAJENDRAN,**
   RAJ BHAVAN, KARETTE, VAMANAPURAM,
   NEDUMANGAD TALUK.

BY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 17/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N.KRISHNAN, J

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W.P.(C) No.37217 OF 2007

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Dated this the 17th day of December 2007

JUDGMENT

This writ petition is filed seeking to set aside Ext.P6 order. They are petitions filed under Order 38 Rule 8 as claim petitions. Order 38 Rule 8 makes it clear that it has to be tried as a petition under Order 21 Rule 58. Order 21 Rule 58(4) makes it clear that it is an appealable order. Therefore the writ petition is not maintainable, but it is an appeal that is maintainable. Therefore the writ petition is disposed of as not maintainable, but the time spent in prosecuting the writ petition may be considered sympathetically for condoning the delay, if there is any delay that is caused in filing the appeal.

M.N.KRISHNAN, JUDGE

Cdp/-